

**BOROUGH OF WESTWOOD  
WORK MEETING OF THE MAYOR & COUNCIL  
SEPTEMBER 4, 2012 MINUTES  
MUNICIPAL COMPLEX  
101 Washington Avenue  
7:30 PM Executive Closed Session/8:00 pm Public Session**

**1. Opening of the Meeting:**

The meeting was called to order by Mayor Birkner at 7:30 pm. Mayor Birkner then read the Open Public Meetings Law Statement: "This meeting which conforms with the Open Public Meetings law, Chapter 231, Public Laws of 1975, is a regular Borough Council meeting. Notices have been filed with our local official newspapers and posted on the municipal bulletin board."

**2. Roll Call:**

Mayor Birkner – Present  
Councilmember Grefrath – Present  
Councilmember Miller - Present  
Councilmember Phayre – Present  
Councilmember Quinn - Present  
Councilmember Sciara - Present  
Council President Waneck - Present  
Borough Administrator Hoffmann – Present  
Borough Attorney Huntington - Present  
Borough Clerk Hughes – Present

**Committee Assignments:**

Health & Recreation  
Police & OEM  
Finance, Administration & Capital Projects  
Land Use  
Fire & Ambulance  
Public Properties

**3. Resolution #12 - 240: Executive Closed Session**

Motion: Councilmember Miller    Second: Councilmember Sciara

Roll Call: Councilmember Grefrath – Yes	Councilmember Miller – Yes
Councilmember Phayre – Yes	Councilmember Quinn – Yes
Councilmember Sciara – Yes	Council President Waneck – Yes

**4. Reopen the Meeting:**

**Motion to reopen the meeting:** Councilmember Phayre    Second: Council President Waneck

Voice Vote: A voice vote was taken with all present voting in the affirmative.

The time was 8:15 pm.

**5. Roll Call II:**

Mayor Birkner – Present  
Councilmember Grefrath - Present  
Councilmember Miller – Present  
Councilmember Phayre - Present  
Councilmember Quinn – Present  
Councilmember Sciara - Present  
Council President Waneck - Present  
Borough Administrator Hoffmann – Present  
Borough Attorney Huntington - Present  
Borough Engineer Boswell - Present  
Borough Clerk Hughes – Present

**6. Flag Salute**

Mayor Birkner led those present in the salute to the flag

**7. Reports of Committees and Officials:**

**A) Mayor's Report**

**1) Verizon V. Hopewell appeal**

Mayor Birkner advised that the Borough would not contribute towards the Hopewell litigation.

**2) Dispatch**

Mayor Birkner had hoped to provide an update on an advancement with dispatch discussions but Washington Township postponed the meeting scheduled for earlier tonight. Mayor Birkner said he had fielded some questions from the Township Council, but the answers were the same as already provided at a previous meeting. At this point Washington Township needed to do an internal review. Mayor Birkner is hopeful that there will soon be a date to move forward and continue positive discussion.

**3) Freeholder Listening Tour**

Mayor Birkner reported on the Freeholder listening tour to obtain input on consolidating County police services. He thinks it was beneficial for residents to have that forum to state their ideas. Mayor Birkner applauded the Westwood Council for their efforts to share services, particularly dispatch services.

**B) Engineer's Report**

**a) Biweekly Report**

Dr. Boswell reviewed his biweekly report, a copy of which is attached.

**b) NJDOT 2013 Grant Proposal**

Dr. Boswell explained that the NJDOT 2013 aid applications are due September 28. He has presented a proposal for Pascack Road, which he believes is a strong candidate.

Councilmember Grefrath asked how much of Pascack Road would be addressed. Dr. Boswell said as much as can be done with \$170,000. He noted that Fairview Avenue took five years. Councilmember Grefrath supposed that Pascack Road might need more than just repaving. Dr. Boswell said the project could include subbase and drainage, and is reconstruction rather than resurfacing. Mayor Birkner asked when it would start. Dr. Boswell said grants are awarded in November, after which the Borough would then authorize the design, so the project could start in April. Mayor Birkner asked if it could be added into the 2013 road resurfacing project. Dr. Boswell said it is up to the Borough.

**c) Train Resignalization**

Council President Waneck observed that it is getting to the point where the resignalization won't occur until 2013. Dr. Boswell said that is probably the case. If everyone agreed on the plans in the next few weeks, the project could bid next month. There is plenty of the work that could be done over the winter. Council President Waneck asked if leasing issues have been worked out. Dr. Boswell said all easements are worked out.

**C) Council Liaison & Committee Reports**

**1) Finance, Administration and Capital Projects:**

**a) CFO Position**

Councilmember Phayre announced that the Borough has chosen a part time CFO, who will begin on October 1.

**Motion to adopt resolution #12-241: Appointment of CFO** Councilmember Phayre

Second: Council President Waneck

Roll Call: Councilmember Grefrath – Yes	Councilmember Miller – Yes
Councilmember Phayre – Yes	Councilmember Quinn – Yes
Councilmember Sciara – Yes	Council President Waneck – Yes

Mayor Birkner welcomed Durene Ayer to the Westwood family. He applauded the Finance and Personnel Committees for their work.

**b) Best Practices Checklist**

Councilmember Phayre explained the Best Practices worksheet, which the Finance Committee will be reviewing within the next month.

**2) Police and OEM:**

**a) Police Interviews**

Councilmember Miller reported that the interviews for the Police Department continue. The committee spoke to the final 12 candidates. Councilmember Miller remarked that interviews are often subjective, but this interview process was as objective as an interview could be, since every candidate received the same questions.

**3) Fire and Ambulance:**

**a) Fire Department Update**

Councilmember Sciara advised that conversation continues between the Fire Chief, United Water, and Bergen County officials to implement swift water training for the Westwood Fire Department and other local departments.

**4) Public Properties:**

**a) Community Center Roof**

Regarding the quote provided to do work on the Community Center roof, Council President Waneck said it is premature to discuss it. This would fall into next year's capital budget unless it becomes an emergent issue.

**b) Goals**

Council President Waneck noted that the third quarter is ending so she will be contacting Councilmembers on the status of the goals and objectives.

**5) Land Use: IQ**

**a) Shade Tree Ordinances**

Councilmember Quinn introduced John Anlian, the Shade Tree Committee consultant who prepared draft resolutions to revise the shade tree code. Mr. Anlian introduced himself and gave his credentials. He explained the reasoning behind and advantages to creating a Shade Tree Commission, including increased immunity from liability. Mr. Anlian explained how he

revised the existing shade tree ordinance.

Councilmember Quinn asked if these are two totally separate ordinances that can stand alone. Mr. Anlian said yes. The second revises a section of the existing code. Both stand independently but work well together and don't conflict. The shade tree ordinance is based on state statute, and defines the jurisdiction of the Shade Tree Commission as all trees, shrubs, and ornamentals within public areas. It does not extend into back yards. However, if a tree is growing along a sidewalk the jurisdiction extends onto the front lawn. The land use ordinance extends all over the community, but only kicks in when there is some type of development on a property.

Mr. Huntington asked if the Shade Tree Commission ordinance can be tailored to the municipality without losing immunity. Mr. Anlian thinks it could. Councilmember Quinn asked what liability the Borough is subject to if the tree program is run by the DPW. Mr. Anlian said there is basic protection under the tort claim law.

Councilmember Grefrath spoke about the tree protection elements of the ordinances, since the current ordinance has been perceived as weak and vague. He asked if the protection in these ordinances is the same or better than the Marlboro Township ordinance, which is the benchmark. Mr. Anlian said he had looked at the Marlboro ordinance. The current ordinance is good and comparable to the NJ Forest Service and Shade Tree Federation model ordinances. He refined it a little, such as protecting tree roots to end of the drip line, and protecting trees when sidewalks are replaced.

Mr. Hoffmann noted that if there is a Shade Tree Committee that obtains training credits and maintains a tree canopy plan, the municipality has the same protection as with a Commission. Mr. Anlian said that while it could be argued that the statute could be extended to the JIF's position, why place oneself in a situation to argue it?

Mr. Huntington asked how operational decisions would be managed under a Commission. Mr. Anlian said in Ridgefield Park the rule is that a tree does not get removed unless the Commission approves it first, except in an emergency. For low lying branches the DPW is fully authorized for removal. Their DPW does much of the work but the Shade Tree Commission also hires contractors. Mr. Huntington questioned how approvals are handled if monthly meetings are cancelled and there is a long gap with no way to obtain approval. Mr. Anlian explained how requests are compiled by the secretary of the Ridgefield Park Shade Tree Commission, and handled in one afternoon by the Arborist, unless it is an emergency. The Commission meets twice a month and keeps in contact by email and telephone. It is run like a business.

Linda Hayes, Shade Tree Committee - said she goes out right away to investigate a tree complaint. Some things are acted on immediately, and some things go to a Committee meeting. However, she is constantly in communication with the DPW and homeowner. Mr. Anlian said the program only works with good communication.

Council President Waneck questioned whether statutorily a commission would have jurisdiction over a public utility. Mr. Anlian said the commission can require a permit, but a utility by state statute trumps a commission. However, if a utility knows you're watching they're much more careful with trimming trees. Under state statute if the utility negligently damages or injures a tree they are responsible. Councilmember Phayre asked if

permitting can be done by a committee. Mr. Anlian said yes.

Ms. Hayes said PSE&G meets with the DPW and Shade Tree Committee when coming to town. They gave \$1000 last year for the tree restitution fund. Ms. Hayes said the Committee has a good relationship with them.

**6) Health and Recreation:**

**a) Veterans Park Update**

Councilmember Grefrath reported that the Veterans Park Quad 2 construction is progressing. While he would love to see a cluster of cherries or dogwoods planted where the two trees were taken down by bandstand, there is not enough funding so he will hold off until next year. Councilmember Quinn suggested paying for the trees out of the tree restitution fund. Councilmember Grefrath hadn't thought of that but will investigate the possibility.

**b) Memorial Bench Program**

Councilmember Grefrath thanked the papers for running articles on the Memorial Bench program. He updated the Governing Body on the status of the program.

**c) Recreation Update**

Councilmember Grefrath announced that the Recreation summer playground program registered 494 children, a 9% increase over last year.

Council President Waneck asked about the accounting of the Recreation trust fund. Councilmember Grefrath said he will have it soon. Councilmember Miller asked what that means. Mr. Hoffmann said there's been a preliminary report generated that is being checked right now by the auditor. The Governing Body will have it before the next meeting.

**d) Minutes: July 17, 2012 Public Meeting**

**Motion to adopt the July 17, 2012 Public Session Minutes:** Councilmember Grefrath  
Second: Council President Waneck

Roll Call: Councilmember Grefrath – Yes

Councilmember Phayre – Yes

Councilmember Sciara – Yes

Councilmember Miller – Yes

Councilmember Quinn – Yes

Council President Waneck – Yes

**D) Attorney's Report**

No report.

**E) Administrator's / Clerk's Report**

**a) Westvale Lights Analysis**

Mr. Hoffmann reviewed the spreadsheet regarding the Westvale lights. Councilmember Miller asked if the cost was more or less than predicted. Mr. Hoffmann said more, since there are demand charges. Council President Waneck asked if the hours per billing cycle was the number of hours a group used the field. Mr. Hoffmann said it reflects the number of hours the lights were lit on that field for that month. Council President Waneck asked for

Meadowbrook Park to be added to the analysis. Mr. Hoffmann said it will be, although this analysis was originally just for Westvale. Council President Waneck said the ultimate goal was to allocate expenses to the sports associations, so all fields should be added.

Council President Waneck advised the Governing Body that in October they will receive a summary of recommendations for 2013. Mr. Hoffmann said it will be a recommendation for updating the Recreation ordinance to charge accurately for the use of fields. It would give recommendations for non-Borough vs Borough users. Councilmember Quinn thought that was in the current ordinance. Council President Waneck said it does not include the electrical fee. Councilmember Quinn asked if there will be a permit and separate electric bill. Council President Waneck said the electric costs would be worked into the permit fee. She believes non-Borough users should pay the full cost of electric. Mayor Birkner asked if it is within the Green Acres funding guidelines to create a structure for user charges. Mr. Huntington thinks so but will double check. Council President Waneck said it would not include Meadowbrook, which is not a Green Acres park.

**b) CDBG Grant**

Mr. Hoffmann advised that CDBG grant deadline is October 5. A suggestion has been submitted by the Library to renovate the circulation desk and make ADA compliant. Council President Waneck asked if a memo was sent to all departments asking if they have a suggestion as well. Mr. Hoffmann said it was discussed at a department head meeting. Council President Waneck asked if all departments had the opportunity for input. Mr. Hoffmann said yes. Councilmember Phayre asked if this is a match grant. Mr. Hoffmann said it is fully funded.

**8. Agenda/Public Forum:**

**Motion to open the Agenda/Public Forum:** Councilmember Miller

Second: Councilmember Sciara

Voice Vote: A voice vote was taken with all present voting in the Affirmative.

Abe Ibrahim, 2 St. Nicholas – glad to see local streets being repaved. Mr. Ibrahim understands that St. Nicholas was on the repaving list but hasn't happened yet, may be because sewers or drainage are needed. Council President Waneck said the road paving plan should be on the website under Capital Improvements, although it is subject to change. Mr. Ibrahim said during heavy rains water accumulates at the dead end and becomes a small pond since there is only one sewer on the entire length of the street. This sewer drain is often clogged with leaves. Mr. Ibrahim said the street is deteriorated with chunks of asphalt missing. Mayor Birkner said the DPW will look to see if anything can be done in the interim and make sure the drain is cleaned out. He can't recall any plans for sewer work but will work with the Engineer. Mr. Hoffmann noted that a neighbor on St. Nicholas had tree roots in their sewer line.

**Motion to close the Agenda/Public Forum:** Councilmember Phayre

Second: Councilmember Miller

Voice Vote: A voice vote was taken with all present voting in the affirmative.

**9. Presentation of Bills, Financial Reports and Resolutions:**

Mayor Birkner advised that the following Resolutions would be enacted in one motion. Councilmembers who wished to remove any Resolution(s) to be voted upon separately, had the opportunity to do so at this time, and said Resolutions would be considered separately. Resolutions h, i and j were added.

Council President Waneck asked if the Crossing Guards are additional or replacement. Mr. Hoffmann explained they are replacement and per diem. Council President Waneck inquired about the possibility of using alternative personnel, such as Parking Authority employees. Mr. Hoffmann said it is a good thought and worth looking into. Councilmember Miller said the seasonal statement on the resolution is inaccurate; unemployment is a legal right. If that statement is communicated, it needs to be corrected. Council President Waneck questioned whether a per diem would be entitled to unemployment benefits. Mr. Hoffmann said an entitlement can't be altered by resolution. Mr. Huntington explained that the issue is receiving unemployment every summer as opposed to unemployment when terminated. Councilmember Miller said the issue arose several years ago and information was relayed incorrectly. Council President Waneck suggested that the appointments be made now but alternatives be considered for the future.

**Resolutions as Consent Agenda:**

- a) **Resolution #12 - 242: Bill List & Statement of Cash**
- b) **Resolution #12 - 243: Authorizing Refund of Taxes B408 L6**
- c) **Resolution #12 - 244: Authorizing Refund of Taxes B1607 L18**
- d) **Resolution #12 - 245: Annual Snow Plowing Agreement 2012-2014**
- e) **Resolution #12 - 246: Municipal Alliance Grant Application**
- f) **Resolution #12 - 247: Authorizing the Execution of Various Documents in Connection with the Bergen County Improvement Authority's Bergen Municipal Bank Program**
- g) **Resolution #12 - 248: Authorization to Hire Crossing Guards**
- h) **Resolution #12 - 249: In Appreciation of the Acting CFO**
- i) **Resolution #12 - 250: Authorization to Enter 2012-2013 CD Grant Agreement - Handicapped Accessible Doors Borough Hall**
- j) **Resolution #12 - 251: Authorizing 2013 NJDOT Grant Application for Pascack Road Improvements**

**Motion to adopt resolutions #12-242 through #12-251:** Councilmember Grefrath

Second: Councilmember Sciara

Roll Call: Councilmember Grefrath – Yes    Councilmember Miller – Yes  
                  Councilmember Phayre – Yes       Councilmember Quinn – Yes  
                  Councilmember Sciara – Yes    Council President Waneck – Yes

**10. Adjournment:**

**Motion to adjourn:** Councilmember Sciara       Second: Councilmember Miller

Voice Vote: A voice vote was taken with all present voting in the affirmative.

The time was 9:40 pm.

Attest:

*(signed) Karen Hughes*

Karen Hughes, RMC, Borough Clerk

Proofed by: Denise Holmes, Deputy Clerk